

CHAPTER 35

BOARD OF MEDICAL EXAMINERS

Authority

N.J.S.A. 26:6A-1 et seq., specifically 26:6A-4; 45:1-15.1 and 45:9-2.

Source and Effective Date

R.2005 d.120, effective March 17, 2005.
See: 36 N.J.R. 4633(a), 37 N.J.R. 1203(a).

Chapter Expiration Date

Chapter 35, Board of Medical Examiners, expires on March 17, 2010.

Chapter Historical Note

Chapter 35, Board of Medical Examiners, was adopted and became effective prior to September 1, 1969.

Chapter 35, Board of Medical Examiners, was repealed and Chapter 35, Board of Medical Examiners, was adopted as new rules by R.1983 d.314, effective August 1, 1983. See: 15 N.J.R. 503(a), 15 N.J.R. 1255(a).

Subchapter 7, Chiropractic Practice, was adopted as R.1984 d.533, effective November 19, 1984. See: 16 N.J.R. 686(a), 16 N.J.R. 3208(a).

Pursuant to Executive Order No. 66(1978), Chapter 35, Board of Medical Examiners, was readopted as R.1989 d.532, effective September 21, 1989. See: 21 N.J.R. 2226(b), 21 N.J.R. 3307(a).

Subchapter 6A, Declarations of Death upon the Basis of Neurological Criteria, was adopted as R.1992 d.309, effective August 3, 1992. See: 23 N.J.R. 3635(a), 24 N.J.R. 2731(c).

Subchapter 2A, Limited Licenses: Certified Nurse Midwifery, was adopted as R.1992 d.332, effective September 8, 1992. See: 23 N.J.R. 3632(a), 24 N.J.R. 3094(a).

Subchapter 9, Acupuncture, was adopted as R.1993 d.299, effective June 21, 1993. See: 24 N.J.R. 4013(a), 25 N.J.R. 2689(c).

Subchapter 10, Athletic Trainers, was adopted as R.1993 d.546, effective November 1, 1993. See: 25 N.J.R. 265(a), 25 N.J.R. 4935(a), 26 N.J.R. 483(a).

Pursuant to Executive Order No. 66(1978), Chapter 35, Board of Medical Examiners, was readopted as R.1994 d.522, effective September 19, 1994, and Subchapter 7, Chiropractic Practice, was repealed by R.1994 d.522, effective October 17, 1994. See: 26 N.J.R. 2526(a), 26 N.J.R. 4195(a).

Subchapter 2B, Limited Licenses: Physician Assistants, was adopted as R.1994 d.538, effective November 7, 1994. See: 25 N.J.R. 5099(b), 26 N.J.R. 4411(b).

Subchapter 11, Alternate Resolution Program, was adopted as R.1995 d.339, effective June 19, 1995. See: 27 N.J.R. 1363(a), 27 N.J.R. 2412(a).

Subchapter 7, Prescription, Administration and Dispensing of Drugs, was adopted as R.1997 d.475, effective November 3, 1997. See: 29 N.J.R. 842(a), 29 N.J.R. 4706(a).

Subchapter 4A, Surgery, Special Procedures, and Anesthesia Services Performed in an Office Setting, was adopted as R.1998 d.294, effective June 15, 1998. See: 29 N.J.R. 2238(a), 30 N.J.R. 2236(b).

Petition for Rulemaking. See: 30 N.J.R. 740(c), 1642(a).

Pursuant to Executive Order No. 66(1978), Chapter 35, Board of Medical Examiners, was readopted as R.1999 d.356, effective September 20, 1999. See: 31 N.J.R. 1742(a), 31 N.J.R. 3117(a).

Subchapter 12, Electrologists Advisory Committee; Licensure of Electrologists and Electrology Instructors; Electrology Standards of Practice, was adopted as R.2004 d.279, effective July 19, 2004. See: 35 N.J.R. 3263(a), 36 N.J.R. 3401(a).

Subchapter 13, Perfusionists, Advisory Committee, was adopted as R.2005 d.88, effective March 7, 2005. See: 36 N.J.R. 1721(a), 37 N.J.R. 782(a).

Chapter 35, Board of Medical Examiners, was readopted as R.2005 d.120, effective March 17, 2005. See: Source and Effective Date. See, also, section annotations.

Subchapter 6A, Declarations of Death Upon the Basis of Neurological Criteria, was repealed and Subchapter 6A, Declarations of Death Upon the Basis of Neurological Criteria, was adopted as new rules by R.2007 d.120, effective May 7, 2007. See: 38 N.J.R. 2021(a), 39 N.J.R. 1751(a).

Subchapter 1, Medical Schools, Colleges, Externships, Clerkships And Post-Graduate Work, was renamed Medical Schools, Colleges, Externships and Clerkships; and Subchapter 3, Licensing Examinations and Endorsements, Limited Exemptions from Licensure Requirements, was renamed Licensing Examinations and Endorsements, Limited Exemptions from Licensure Requirements; Post-Graduate Training by R.2008 d.100, effective April 21, 2008. See: 39 N.J.R. 3876(a), 40 N.J.R. 2115(a).

Law Review and Journal Commentaries

How New Jersey Regulates Doctors. Theodosia Tamborlane, 132 N.J.L.J. No. 15, S24 (1992).

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 12. ELECTROLOGISTS ADVISORY COMMITTEE; LICENSURE OF ELECTROLOGISTS AND ELECTROLOGY INSTRUCTORS; ELECTROLOGY STANDARDS OF PRACTICE

13:35-12.1	Purpose and scope
13:35-12.2	Definitions
13:35-12.3	Office of the Committee
13:35-12.4	Notification of change of address
13:35-12.5	License issuance without written examination (Grandfathering)
13:35-12.6	Licensing requirements for electrologist
13:35-12.7	Licensing requirements for electrology instructor
13:35-12.8	Application for license: electrologist
13:35-12.9	Application for license: electrology instructor
13:35-12.10	Licensing requirements for office premises
13:35-12.11	Infection control standards
13:35-12.12	Posting of licenses and required notices
13:35-12.13	Examination requirements; reexamination
13:35-12.14	License issuance, renewal; change of license status: inactive to active; reinstatement of suspended license
13:35-12.15	Unlicensed practice
13:35-12.16	Licensure by credentials (comity license)
13:35-12.17	Suspension, revocation or refusal to renew license
13:35-12.18	Recordkeeping
13:35-12.19	Continuing education, programs, standards
13:35-12.20	Sexual misconduct
13:35-12.21	Advertising and solicitation practices
13:35-12.22	Fee schedule

"Certified Professional Electrologist Examination" means the examination administered by the American Electrology Association.

"Certified Technical Trainer Examination" means the examination administered by the Educational Testing Service.

"Client" means any person who is the recipient of a professional service rendered by a licensee for purposes of treatment.

"Committee" means the Electrologists Advisory Committee established pursuant to section 3 of P.L. 1997, c.347 (N.J.S.A. 45:9-37.76 et seq.).

"Electrologist" means a person who is licensed to practice electrology pursuant to the provisions of P.L. 1997, c.347 (N.J.S.A. 45:9-37.76 et seq.).

"Electrology" means the removal of hair permanently through the utilization of solid probe electrode-type epilation, including thermolysis, being of a short wave, high frequency type, and including electrolysis, being of a galvanic type, or a combination of both, which is accomplished by a super-imposed or sequential blend. This definition specifically excludes laser and other intense light source hair removal from the definition of electrology.

"Electrology instructor" means a person who is licensed to teach the clinical and theoretical practice of electrology pursuant to the provisions of P.L. 1997, c.347 (N.J.S.A. 45:9-37.76 et seq.).

"Instrument" means any tool or implement used in electrology procedures.

"Licensee" means an individual holding a license issued by the Electrology Advisory Committee of the State Board of Medical Examiners.

"Office" means any fixed establishment or place where one or more persons engage in the practice of electrology.

13:35-12.3 Office of the Committee

The office of the Committee shall be maintained at 124 Halsey Street, Newark, New Jersey. The mailing address of the Committee is PO Box 45041, Newark, New Jersey 07101.

13:35-12.4 Notification of change of address

(a) Licensees shall notify the Committee in writing of any change from the address currently registered with the Committee and shown on the most recently issued certificate. Such notice shall be sent to the Committee no later than 30 days following the change of address.

SUBCHAPTER 12. ELECTROLOGISTS ADVISORY COMMITTEE; LICENSURE OF ELECTROLOGISTS AND ELECTROLOGY INSTRUCTORS; ELECTROLOGY STANDARDS OF PRACTICE

Authority

N.J.S.A. 45:9-37.76 et seq.

Source and Effective Date

R.2004 d.279, effective July 19, 2004.
See: 35 N.J.R. 3263(a), 36 N.J.R. 3401(a).

13:35-12.1 Purpose and scope

(a) The rules in this subchapter implement the provisions of P.L. 1997, c.347 (N.J.S.A. 45:9-37.76 et seq.), which created the Electrologists Advisory Committee under the State Board of Medical Examiners.

(b) This subchapter shall apply to all applicants seeking licensure as an electrologist, electrology instructor, or an office license and licensed electrologists, licensed electrology instructors and licensed offices.

13:35-12.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Act" means the Electrology Practice Act, N.J.S.A. 45:9-37.76 et seq.

"Authorized representative" means a person who has been designated by the client or a court to exercise rights under this section. An authorized representative may be the client's attorney. If the client is a minor, a parent or guardian who has custody (whether sole or joint) shall be deemed to be an authorized representative.

"Board" means the State Board of Medical Examiners.

(b) Failure to notify the Committee of any change of address pursuant to (a) above may result in disciplinary action in accordance with N.J.S.A. 45:1-21(h).

(c) Service of an administrative complaint or other Board-initiated process at the licensee's address currently on file with the Committee shall be deemed adequate notice for the purposes of N.J.A.C. 17:27-7.1 and the commencement of any disciplinary proceedings.

13:35-12.5 License issuance without written examination (Grandfathering)

(a) Upon submission of an application provided by the Board for licensure as an electrologist or electrology instructor and payment of the application fee set forth in N.J.A.C. 13:35-12.22, the Board shall issue, without written examination, a license to any person who applies for licensure by January 15, 2005, is a resident of this State, and:

1. Has completed 120 hours of instruction in electrology and has submitted an official transcript or letter from the school administrator verifying the completion of the electrology instruction and has been actively engaged in the practice of electrology for at least five years immediately preceding the date of application for licensure. For purposes of this paragraph, "actively engaged in the practice of electrology" means that a person has been performing electrology as defined in N.J.A.C. 13:35-12.2 for a minimum of 400 hours per year for each of the five years immediately preceding the date of application. The applicant shall submit a notarized affidavit stating that the applicant has been actively engaged in the practice of electrology for at least five years immediately preceding the date of application; or

2. Presents evidence of having passed the American Electrology Association Certified Professional Electrology (CPE) examination.

(b) The 120 hours of electrology instruction required by (a)1 above shall include:

1. Forty hours in theory of electrology including:

- i. Anatomy and physiology;
- ii. Microbiology;
- iii. Immunology;
- iv. Basic principles of electricity;
- v. Modalities of electrology;
- vi. Electrology techniques and variables; and
- vii. Operation, care, maintenance of equipment and instruments; and

2. Eighty hours of instruction in clinical practice, including:

- i. Health history assessment;

- ii. Consultation;
- iii. Contraindications;
- iv. Positioning and draping;
- v. Lighting and optics;
- vi. Pre- and post-treatment care;
- vii. Electrolysis, thermolysis, and a blend (a combination of electrolysis and thermolysis);
- viii. Epilation techniques;
- ix. Practice on all body areas;
- x. Aesthetic/cosmetic considerations;
- xi. Side effects, tissue injury, and complications;
- xii. Treatment records;
- xiii. Evaluation of treatment progress;
- xiv. Personal hygiene, aseptic techniques; and
- xv. Interpersonal skills and client management techniques.

(c) This section shall expire on January 16, 2005.

13:35-12.6 Licensing requirements for electrologist

(a) To be eligible for licensure as an electrologist, an applicant shall fulfill the following requirements:

1. Be at least 18 years of age;
2. Be of good moral character;
3. Have successfully completed high school or its equivalent;
4. Have successfully completed:
 - i. An electrology education program accredited by the Council on Accreditation of Electrology Educational Institutions/Programs of the American Electrology Association, or its successor, which includes at least 200 hours of instruction in the theory of electrology and at least 400 hours of instruction in the clinical practice of electrology taught by an electrology instructor licensed pursuant to N.J.A.C. 13:35-12.7; or
 - ii. An electrology education program which is determined by the Board to be substantially equivalent to an accredited program in this State;
5. Have passed the Certified Professional Electrology (CPE) Examination; and
6. Have passed the New Jersey Electrology Jurisprudence Examination.

13:35-12.7 Licensing requirements for electrology instructor

(a) To be eligible for licensure as an electrology instructor, an applicant shall fulfill the following requirements:

1. Be licensed as an electrologist pursuant to the provisions of N.J.S.A. 45:9-37.76 et seq. and N.J.A.C. 13:35-12.6;

2. Have been actively engaged in the practice of electrology for at least five years immediately preceding the date of application for licensure as an electrology instructor. For the purposes of this paragraph, "actively engaged in the practice of electrology" means that a person has been performing electrology as defined in N.J.A.C. 13:35-12.2 for a minimum of 400 hours per year for each of the five years immediately preceding the date of the application; and

3. Have passed the Certified Technical Trainer (CTT) Examination.

13:35-12.8 Application for license: electrologist

(a) An applicant for license as an electrologist shall submit the following to the Committee:

1. A completed application form provided by the Board, including supporting documents;
2. High school diploma or its equivalent;
3. Proof of completion of an electrology program pursuant to N.J.A.C. 13:35-12.6; and
4. The application fee set forth in N.J.A.C. 13:35-12.22.

(b) If the applicant meets the requirements of (a) above, the Committee shall advise the applicant that he or she is eligible to take the Certified Professional Electrology (CPE) Examination and the New Jersey Electrology Jurisprudence Examination.

13:35-12.9 Application for license: electrology instructor

(a) An applicant for license as an electrology instructor shall submit the following to the Committee:

1. A completed application form provided by the Board;
2. A notarized affidavit stating that the applicant has been actively engaged in the practice of electrology for a minimum of 400 hours per year for each of the last five years immediately preceding the date of application; and
3. The application fee set forth in N.J.A.C. 13:35-12.22.

(b) If the applicant meets the requirements of (a) above, the Committee shall advise the applicant that he or she is eligible to take the Certified Technical Trainers (CTT) Examination.

13:35-12.10 Licensing requirements for office premises

(a) To be eligible for an office license, a person, firm, corporation, partnership, or other legal entity intending to open and operate an electrologist's office shall:

1. Submit a completed application form provided by the Board;
2. Permit and pass inspections of the premises; and
3. Submit the fees as required by N.J.A.C. 13:35-12.22.

(b) An electrology office shall be completely separate from living quarters and shall:

1. Maintain separate treatment and waiting room or rooms;
2. Have at least 48 square feet in each treatment room;
3. Have solid floor to ceiling walls in each treatment room;
4. Have a sink with hot and cold running water in each treatment room;
5. Provide sufficient lighting to perform the procedure and adequate ventilation in each treatment room;
6. Maintain clean and sanitary conditions in all rooms;
7. Provide a restroom;
8. Provide a separate outside entrance which leads directly to a waiting room if the electrology office is located within or adjacent to living quarters;
9. Maintain separate electrical outlets in each treatment room;
10. Comply with all local zoning requirements;
11. Prohibit smoking in all rooms; and
12. Prohibit animals in the treatment room, except as otherwise permitted by law.

(c) An electrology office shall maintain the following equipment and supplies in each treatment room on the premises:

1. Epilators, except radio tube epilators shall not be permitted;
2. Single use, presterilized, unexpired disposable needles;
3. A sharps container;
4. A professional treatment table or professional treatment reclining chair;
5. Magnification equipment;
6. Disposable towels, disposable client drapes and treatment table paper stored in a closed cabinet;
7. A plastic-lined trash can;
8. Non-sterile disposable examination gloves;
9. Hospital grade disinfectant detergent;

10. A covered instrument holding container for forceps;
11. FDA-approved antiseptic skin cleansing agent;
12. Liquid soap in disposable container; and
13. 70 percent Isopropyl alcohol.

(d) An electrology office shall maintain:

1. An ultrasonic cleaner;
2. An autoclave or dry-heat oven manufactured for the purpose of sterilization of medical instruments;
3. Monthly reports of biological indicators;
4. Client files maintained to protect privacy and confidentiality;
5. Clean lab coats or uniforms;
6. Protein dissolving solution;
7. Treatment solutions and if not stored in an original container, labeled as to its contents;
8. Sterilization pouches; and
9. Heat indicators.

(e) Any premises where electrology services have been or are being rendered shall be subject to inspection by the Committee or its representative for the purpose of enforcing the provisions of this subchapter.

(f) The Board may provide exemptions to the licensing requirements of this section for a maximum of two years if an applicant can demonstrate that the applicant cannot comply with these requirements due to a pre-existing lease agreement and that such exemption or exemptions will not impair the health, safety or welfare of clients. This subsection shall expire on July 19, 2006.

13:35-12.11 Infection control standards

(a) Electrologists shall comply with the standard precautions for infection control as set forth in this section.

(b) Electrologists shall perform the handwashing technique as described in (c) below in the following instances:

1. Before and after treatment of each client;
2. Before putting on gloves and immediately after gloves are removed; and
3. Immediately upon contact with blood, bodily fluids, secretions or any item that has touched a client or that has been contaminated with blood, bodily fluids or secretions.

(c) Handwashing shall be performed as follows:

1. With the use of liquid soap and water;

2. A vigorous rubbing together of all surfaces of lathered hands, including between fingers and fingernail areas, for at least 10 seconds;

3. A thorough rinsing under a stream of water; and

4. Hands dried thoroughly with a clean disposable paper towel and then the faucet turned off with the paper towel.

(d) Liquid soap containers shall not be refilled and shall be disposed of when empty.

(e) Electrologists shall wear a new pair of non-sterile disposable examination gloves during the treatment of each client and during the procedures of soaking, cleaning, rinsing and drying of forceps and other instruments. Gloves shall be removed, discarded, hands washed and new gloves put on:

1. When a treatment session is interrupted causing the gloves to be contaminated; or
2. When the gloves are torn or perforated.

(f) Electrologists shall clean and sterilize instruments in the following circumstances:

1. Unused instruments before initial use;
2. All containers used for storing contaminated instruments, and their lids on a daily basis or whenever contaminated; or
3. Instruments contaminated before use, such as by dropping or touching a soiled surface.

(g) Instruments shall be cleaned prior to sterilization by:

1. Placing in a sterilizable covered holding container and submerged in a solution of a protein dissolving enzyme detergent and cool water;
2. Thoroughly rinsing with water; or
3. Cleaning in an ultrasonic cleaning unit according to manufacturer's instructions.

(h) Instruments shall be packaged individually or in packages of several instruments that would be used for an individual client and must contain a heat indicator.

(i) Dry heat sterilizers and autoclaves shall be:

1. Approved by the Food and Drug Administration (FDA);
2. Contain visible physical indicators, for example, thermometers and timers; and
3. Cleaned, used and maintained according to the manufacturer's instructions.

(j) Cleaned instruments shall be sterilized in accordance with the manufacturer's instructions for individual sterilizers and by one of the following methods:

1. Dry heat method which shall, at a minimum, conform to the following time-temperature relationships which relate to the time of exposure after attainment of the specific temperature does not include a heat-up lag time:

i. 338 degrees Fahrenheit (170 degrees Centigrade)—one hour;

ii. 320 degrees Fahrenheit (160 degrees Centigrade)—two hours; or

2. Autoclave method which shall, at a minimum, be performed for 15 to 20 minutes at 121 degrees Centigrade (250 degrees Fahrenheit); 15 to 20 pounds per square inch for packaged instruments and items, or other time-temperature relationships recommended by the manufacturer of the units which relate to the time the material is at temperature, and shall not include a penetration or heat-up lag time.

(k) Biological indicators using spore cultures must be utilized at least monthly to assure adequacy of sterilization. The spore testing shall be performed by an outside laboratory. Lab reports of biological indicators shall be filed in a sterility assurance file for two years.

(l) The electrologist shall take the following safety precautions:

1. To prevent accidental puncture injuries, disposable or damaged needles shall not be recapped, bent, or otherwise manipulated by hand prior to disposal. Disposable or damaged needles shall be placed in a sharps container. The sharps container shall be securely sealed and removed by a Department of Environmental Protection regulated hauler of medical waste as required by N.J.A.C. 7:26-3A; and

2. Removable tips for epilator needle holders shall be removed after each treatment soaked in an FDA-approved chemical disinfectant in accordance with manufacturer recommendations. The covered container used to hold the disinfectant shall be emptied daily or whenever visibly contaminated, then cleaned, dried, and refilled with fresh disinfectant.

(m) Soiled disposable items, other than instruments, shall be discarded into a container lined with a plastic bag, securely fastened, and disposed of daily into the regular trash disposal, unless otherwise specified by State and local health regulations.

(n) A hospital-grade disinfectant registered with the Environmental Protection Agency (EPA) shall be used to disinfect:

1. Equipment, such as an epilator or lamp used during treatment, between the use of each client; and

2. Exposed surfaces such as counter tops, tables and sinks on a daily basis.

13:35-12.12 Posting of licenses and required notices

(a) All licensed office premises shall clearly display the following:

1. The office license;

2. The licenses of all electrologists rendering services within the office; and

3. A list of all services performed and the charge for each service.

(b) All licensed office premises shall display the following notice:

NOTICE

This office and the electrologists herein are licensed to engage in the practice of electrology by the State of New Jersey, Division of Consumer Affairs. Any member of the public having a complaint concerning the manner in which electrology practice is conducted may notify the State Board of Medical Examiners, Electrologists Advisory Committee at PO Box 45041, Newark, New Jersey 07101.

13:35-12.13 Examination requirements; reexamination

(a) Except as provided in N.J.A.C. 13:35-12.5, an applicant for licensure as an electrologist shall successfully complete the Certified Professional Electrology (CPE) Examination, or its successor, and the New Jersey Electrology Jurisprudence Examination.

(b) An applicant who has previously taken the Certified Professional Electrology Examination (CPE), or its successor, shall have successfully completed the examination within five years of application for an electrologist license.

(c) An applicant for licensure as an electrology instructor shall successfully complete the Certified Technical Trainer Examination, or its successor.

(d) The applicant shall be eligible to take either the Certified Professional Electrology (CPE) Examination or the Certified Technical Trainer Examination (CTT), or their successor, for one year from the date the Committee advises the applicant that he or she is eligible to sit for the examination or for two administrations of the examination unless the applicant can demonstrate undue hardship to the Committee.

(e) If an applicant fails the Certified Professional Electrology (CPE) Examination, or its successor, twice, the applicant may take the examination a third time only if the applicant completes an electrology course(s) as directed by the Committee, from an accredited electrology education program and submits to the Committee a certification of program completion.

13:35-12.14 License issuance, renewal; change of license status: inactive to active; reinstatement of suspended license

(a) Licenses to practice electrology, electrology instructor licenses and office premises licenses shall be issued for a period of two years and be renewed biennially.

1. A licensee who seeks renewal of his or her license shall submit a license renewal application and the license renewal fee set forth in N.J.A.C. 13:35-12.22 to the Committee at least 30 days prior to the expiration of the current license. An office license is not transferable or assignable. If the holder of an office license changes, a new office license application shall be filed with the Committee within 10 days of the change.

2. Renewal applications shall provide the applicant with the option of either active or inactive status. A licensee electing inactive status shall pay the inactive license fee set forth in N.J.A.C. 13:35-12.22 and shall not engage in the practice of electrology.

3. If a licensee does not renew his or her license prior to its expiration date, the licensee may renew the license within 30 days of its expiration by submitting a renewal application, a license renewal fee and a late fee, as set forth in N.J.A.C. 13:35-12.22.

4. A license that is not renewed within 30 days of its expiration date shall be automatically suspended. Any individual who continues to practice with a suspended license after 30 days following the license expiration date shall be deemed to be engaged in unlicensed practice.

5. At the time of renewal, each licensed electrologist shall certify the completion of the required number of continuing education credits as prescribed in N.J.A.C. 13:35-12.19.

6. Falsification of any information submitted with the renewal application may result in penalties, suspension of the license, or any other action deemed appropriate by the Board, pursuant to N.J.S.A. 45:1-21 through 45:1-25 and N.J.A.C. 13:35-12.17.

(b) A licensee, upon application to the Board, may change from inactive to active status upon payment of the renewal fee as set forth in N.J.A.C. 13:35-12.22 and complied with the continuing education requirements as set forth in N.J.A.C. 13:35-12.19(d).

(c) An individual whose license has been automatically suspended for nonpayment of a biennial renewal fee pursu-

ant to N.J.A.C. 13:35-12.22 may be reinstated by the Board, provided the applicant otherwise qualifies for licensure pursuant to N.J.A.C. 13:35-12.6, 12.7 and 12.8, has complied with the continuing education requirements as set forth in N.J.A.C. 13:35-12.22(d), and submits a completed reinstatement application and one of the following to the Board:

1. A certification of licensure in good standing from any other state or jurisdiction in which the applicant has practiced electrology, has practiced as an electrology instructor or has held an electrology office premises license during the period the license was suspended in this State;

2. Certification by the applicant stating that he or she has practiced electrology, has practiced as an electrology instructor or has held an electrology office premises license in a state or jurisdiction which does not require certification or licensure, during the period the license was suspended in this State; or

3. Certification stating that the applicant has not practiced electrology, has practiced as an electrology instructor or has held an electrology office premises license, in this or any other jurisdiction during the period the license was suspended in this State;

(d) In addition to the requirements of (c) above, an individual who has practiced electrology, has practiced as an electrology instructor or has held an electrology office premises license in the manner described in (a)1 or 2 above shall submit written verification, on a form provided by the Board, from all of the applicant's employers. The verification shall document dates of employment from the date the New Jersey license was suspended to the date of application for reinstatement, and the name, address and telephone number of each employer.

(e) An individual seeking reinstatement whose license has been automatically suspended for a period of five or more years shall successfully complete the examination required for initial licensure as set forth in N.J.A.C. 13:35-12.13.

(f) Prior to reinstatement, an applicant shall pay a reinstatement fee and all past delinquent biennial renewal fees pursuant to N.J.A.C. 13:35-12.22.

13:35-12.15 Unlicensed practice

(a) No person shall practice electrology, whether or not compensation is received or expected, unless the person holds a valid license to practice electrology in this State. No person shall teach electrology, whether or not compensation is received or expected, unless the person holds a valid license to teach electrology in this State. Nothing in these rules shall be construed to:

1. Prohibit any person licensed to practice or certified to teach electrology in this State under any other law or rule from engaging in the practice or teaching for which he or she is licensed, regulated or certified; or

2. Prohibit any student enrolled in an approved clinical electrology education program from performing that which is necessary to the student's course of study.

(b) No person, firm, corporation, partnership or other legal entity shall operate, maintain or use premises for the rendering of any service as provided in the definition of electrology at N.J.A.C. 13:35-12.2 without first having secured an office license from the Board.

(c) No person, business entity or its employees, agents or representatives shall use the titles "licensed electrologist" or "licensed electrology instructor" or the letters "L.E." or "L.E.I.," or any other title, designation, words, letters, abbreviations or insignia indicating the practice or teaching of electrology, unless licensed to practice or teach electrology pursuant to the provisions of this subchapter.

(d) The holder of an office license shall not aid, abet, or permit a person not licensed by the Board to render any services encompassed within the definition of electrology pursuant to N.J.A.C. 13:35-12.2.

13:35-12.16 Licensure by credentials (comity license)

(a) Any person with a valid registration, certification, or license to practice electrology or as an electrology instructor issued by another state or possession of the United States or the District of Columbia shall, upon submission of an application provided by the Committee and payment of a fee as set forth in N.J.A.C. 13:35-12.22, be issued a license to provide electrology services or to act as an electrology instructor, whichever is applicable, provided that:

1. The education, training, and examination requirements in such other jurisdiction are substantially equivalent to those required by this State at the time of application;
2. The applicant has not previously failed the Certified Professional Electrology (CPE) Examination or the Certified Technical Trainer (CTT) Examination required by N.J.A.C. 13:35-12.6 and 12.7;
3. All other State registrations, certificates, or licenses are current, active, and in good standing; and
4. The applicant has passed the New Jersey Electrology Jurisprudence Examination.

(b) If the out-of-State applicant has failed the examination required by N.J.A.C. 13:35-12.6 and 12.7, licensing shall be at the discretion of the Committee. The Committee shall take the following into consideration to determine the applicant's qualification for licensure:

1. Educational history;
2. Consumer complaint history;
3. Examinations taken and date(s) and number of failures, if any;

4. Employment history; and

5. Length of licensure in the other jurisdiction(s).

13:35-12.17 Suspension, revocation or refusal to renew license

(a) The Board may refuse to grant or may suspend or revoke a license to practice or teach electrology or operate an electrology office upon proof that the licensee:

1. Has employed unlicensed persons to practice electrology or supervised or aided an unlicensed person in the practice of electrology;

2. Has advertised the practice of electrology so as to disseminate false, deceptive or misleading information, whether as an individual, through a professional service corporation, or through a third party;

3. Has promoted the sale of devices, appliances, or goods to a client so as to exploit the client for financial gain;

4. Has used instruments or procedures in the practice of electrology that are not approved by the Board or Committee as set forth in N.J.A.C. 13:35-12.10 and 12.11;

5. Has maintained an office not in compliance with the standards for sanitary conditions set forth in N.J.A.C. 13:35-12.10 and 12.11;

6. Has acted in a manner inconsistent with the standards of practice of electrology at N.J.A.C. 13:35-12.10, 12.11, 12.18, 12.19, 12.20 and 12.21;

7. Has obtained a certificate, registration, license or authorization to sit for an examination, as the case may be, through fraud, deception or misrepresentation;

8. Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;

9. Has engaged in gross negligence, gross malpractice or gross incompetence which damaged or endangered the life, health, welfare, safety or property of any person;

10. Has engaged in repeated acts of negligence, malpractice or incompetence;

11. Has engaged in professional or occupational misconduct as may be determined by the Board;

12. Has been convicted of, or engaged in acts constituting, any crime or offense involving moral turpitude or relating adversely to the activity regulated by the Board. For the purpose of this subchapter, a judgment of conviction or a plea of guilty, non vult, nolo contendere or any other such disposition of alleged criminal activity shall be deemed a conviction;

13. Has had his or her authority to engage in the practice of electrology revoked or suspended by any other state, agency or authority for reasons consistent with this subchapter;

14. Has violated or failed to comply with the provisions of any Act or regulation administered by the Board;

15. Is incapable, for medical or any other good cause, of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare;

16. Has repeatedly failed to submit completed applications, or parts of, or documentation submitted in conjunction with such applications, required to be filed with the Department of Environmental Protection;

17. Has violated any provision of P.L. 1983, c.320 (C.17:33A-1 et seq.) or any insurance fraud prevention law or Act of another jurisdiction or has been adjudicated, in civil or administrative proceedings, of a violation of P.L. 1983, c.320 (C.17:33A-1 et seq.) or has been subject to a final order, entered in civil or administrative proceedings, that imposed civil penalties under the Act against the applicant or holder;

18. Is presently engaged in drug or alcohol use that is likely to impair the ability to practice the profession or occupation with reasonable skill and safety. For purposes of this subchapter, the term "presently" means at this time within the previous 365 days;

19. Has permitted an unlicensed person or entity to perform an act for which a license or certificate of registration or certification is required by the Board, or aided and abetted an unlicensed person or entity in performing such an act; or

20. Has advertised fraudulently in any manner.

(b) In addition to the consequences listed in (a) above, the Board may impose additional or alternative penalties pursuant to N.J.S.A. 45:1-14 et seq. for violations of any provision of the Act and this subchapter.

(c) The refusal to renew, temporarily suspend or revoke a license, and/or the issuance of a civil penalty under this section may be ordered by the Board provided that the licensee has an opportunity to be heard by the Board or Committee.

13:35-12.18 Recordkeeping

(a) Licensees shall make contemporaneous, permanent entries into client records which shall accurately reflect the electrology services rendered. Client records shall be maintained for a period of seven years from the date of the most recent entry. The client record shall contain:

1. A Health History Assessment, only to the extent that it relates to the practice of electrology;
2. The dates and duration of each treatment;
3. The client's presenting problem and/or condition;
4. The name of the treating electrologist if there is more than one electrologist practicing at the office;

5. Areas treated, size of needle, modality and settings;
6. Progress notes;
7. Any referral to a physician; and
8. Fees charged and paid.

(b) Corrections and/or additions may be made to a client record, provided that each change is clearly identified as such, dated and initialed by the licensee.

(c) A client record which is prepared and maintained on a personal or other computer shall be producible as hard copy upon demand.

(d) Licensees shall provide a copy of a client treatment record to a client or an authorized representative no later than 30 days from receipt of a written request from the client or an authorized representative.

(e) Licensees shall maintain the confidentiality of professional treatment records, except that:

1. The licensee shall release client records as directed by a subpoena issued by the Board of Medical Examiners or the Office of the Attorney General, or by a demand for statement in writing under oath, pursuant to N.J.S.A. 45:1-18. Such records shall be originals, unless otherwise specified, and shall be unedited, with full client names; and

2. The licensee shall release information as required by law or regulation.

13:35-12.19 Continuing education, programs, standards

(a) A licensed electrologist applying for biennial license renewal shall complete, during the preceding biennial period, continuing education in the continuing education (CE) credits specified in N.J.A.C. 13:35-12.17. Licensees during their initial period of licensure are exempt from the continuing education requirements of this subchapter.

(b) Each licensee shall confirm on the application for biennial licensure renewal that he or she has completed the required number of continuing education credits as provided for in N.J.A.C. 13:35-12.17. Falsification of any information submitted with the renewal application may result in penalties and/or suspension of the certificate pursuant to the Uniform Enforcement Act, N.J.S.A. 45:1-21.

(c) Each applicant for a biennial license renewal shall complete during the preceding biennial period 30 credits of continuing education. Twenty hours of the continuing education shall be in courses requiring personal attendance and be directly related to the practice of electrology. Fifteen of those 20 hours shall be in courses pertaining to universal precautions. The 10 remaining credits may be earned as provided for in (h) below.

(d) A licensee whose license has been automatically suspended for nonpayment of a biennial renewal fee pursuant to N.J.A.C. 13:35-12.22 and a licensee who seeks to reactivate the license shall submit to the Committee proof of successful completion of 15 continuing education credits per year for up to five years. If the licensee has failed to renew for five years, he or she shall retake the Certified Professional Electrology (CPE) Examination pursuant to N.J.A.C. 13:35-12.8.

(e) Any continuing education credits earned which are in excess of the 30 credits specified in (c) above during a biennial licensure period shall not be carried forward into the following biennial licensure period.

(f) A licensee who is required to complete remedial continuing education pursuant to Board action shall not receive credit for such imposed continuing education toward the mandatory 30 credits of biennial continuing education.

(g) The Board may direct a licensee to complete continuing education credits to correct a deficiency in the licensee's continuing education requirement.

(h) A licensee may obtain continuing education credits from the following:

1. Successful completion of programs, courses or seminars approved by the Continuing Education Review Committee of the American Electrology Association or the Board pursuant to (i) below. The Committee shall approve only such continuing education programs as are available to all electrologists in this State on a reasonable nondiscriminatory basis. Programs may be held within or out of the State, but shall be held so as to allow electrologists in all areas of the State to attend. The Committee shall maintain a list of all approved programs, courses and lectures at the Committee office and shall furnish this information to licensees upon request;

2. Post-graduate work at electrology schools whose curriculum has been approved by the Board pursuant to N.J.A.C. 13:35-12.6, transcripts of which shall be furnished to the Committee;

3. Course work in the following areas related to the practice of electrology such as:

- i. Communications;
 - ii. Ethics;
 - iii. Business;
 - iv. Accounting;
 - v. Technology; and
 - vi. Health related subjects such as diabetes, dermatology, endocrinology, plastic surgery and allergies;
4. Authorship of peer reviewed textbooks, articles or manuals specifically related to electrology; and

5. Correspondence, televised, videotaped, teleconference and internet courses related to the practice of electrology with verification by the course provider that the course was monitored and successfully completed by the licensee.

(i) Credit for continuing education shall be granted for each biennial licensure period as follows:

1. A licensee shall receive one continuing education credit for each hour of attendance at programs, courses or seminars approved by the Continuing Education Review Committee of the American Electrology Association or the Committee. Credit shall not be granted for courses that are less than one instructional hour long. Completion of an entire course is required in order to receive any continuing education credit;

2. Successful completion of post-graduate course work pursuant to (h) above: one continuing education credit for each course credit awarded;

3. Successful completion of related courses pursuant to (h) above: one continuing education credit for each course credit awarded with a maximum of five credits per biennial licensure period;

4. Publication in a peer reviewed professional journal of an article related to the practice of electrology: three credits per article with a maximum of six credits per biennial licensure period;

5. Authorship of a peer reviewed textbook or manual related to the practice of electrology: five credits for each textbook or manual with a maximum of 10 credits per biennial licensure period; and

6. Correspondence, televised, videotaped, teleconference and internet courses related to the practice of electrology: a maximum of 10 credits per biennial licensure period.

(j) To report continuing credit hours, a licensee shall:

1. Certify on the application for biennial renewal completion of the required number of continuing education credits. Falsification of any information submitted on the renewal application may result in penalties and/or license suspension;

2. Maintain all evidence, as outlined in (j)3 below, of completion of continuing education requirements for a period of five years after completion of the credits and shall submit such documentation to the Committee upon request;

3. Provide to the Committee, upon request, documentation of continuing education requirements as follows:

- i. For programs, courses, seminars and conferences approved by the Board pursuant to (i) above: the course provider's written verification of attendance;

- ii. For post-secondary courses: a transcript;

iii. For articles published in a peer reviewed professional journal: the published article;

iv. For authored textbooks or manuals: the textbook or manual; and

v. Correspondence, televised, videotaped, teleconference and internet courses: verification from the course provider.

(k) The Committee will, from time to time, conduct random audits to determine licensee compliance with continuing education requirements.

(l) The Committee may, upon receipt of a request for waiver, waive continuing education requirements on an individual basis for reasons of hardship, such as severe illness, disability or military service.

1. Any licensee seeking a waiver of the continuing education requirements shall apply to the Committee in writing and set forth in specific detail the reasons for requesting the waiver. The licensee shall provide the Committee with such supplemental materials as will support the request for waiver.

(m) All sponsors of continuing education shall:

1. Submit the following for each course, program or seminar offered, for evaluation by the Committee:

i. A detailed description of course content and estimated hours of instruction; and

ii. The curriculum vitae of each lecturer, including specific background which qualifies the individual as a lecturer in the area of instruction;

2. Obtain Committee approval prior to representing that any course, seminar, or program fulfills the requirements of this section;

3. Monitor the attendance at each approved course, program or seminar and furnish to each enrollee a verification of attendance, which shall include at least the following information:

i. The title, date and location of the course, program or seminar offering;

ii. The name and license number of the attendee;

iii. The number of credits awarded; and

iv. The name and signature of the sponsor and the seal of the organization;

4. Evaluate course offerings. Evaluations shall be solicited from both the attendees and the instructors; and

5. Submit a fee pursuant to N.J.A.C. 13:35-12.22 for each submission of courses, programs or seminars reviewed by the Committee.

13:35-12.20 Sexual misconduct

(a) A licensee shall not engage in sexual contact with a client during the course of electrology treatment. "Sexual contact" means the knowing touching of a person's body directly or through clothing, where the circumstances surrounding the touching would be construed by a reasonable person to be motivated by the licensee's own prurient interest or for sexual arousal or gratification. "Sexual contact" includes, but is not limited to, the imposition of a part of the licensee's body upon the part of the client's body, sexual penetration, or the insertion or any imposition of any object of any part of a licensee's or client's body into or near the genital, anal or other opening of the other person's body. "Sexual contact" does not include the touching of a client's body which is necessary during a generally accepted and recognized electrology procedure.

(b) A licensee shall not engage in any discussion of an intimate sexual nature with a client during the course of treatment unless that discussion is directly related to a proper electrology purpose. Such discussion shall not include disclosure by the licensee of his or her own sexual relationships.

(c) A licensee shall provide privacy and examination conditions which prevent the exposure of the unclothed body of the client. Appropriate draping measures shall be employed to protect the client's privacy.

(d) A licensee shall not engage in sexual harassment during the course of electrology treatment. "Sexual harassment" means solicitation of any sexual act, physical advances, or verbal or non-verbal contact that is sexual in nature, and which occurs in connection with a licensee's activities or role as a provider of electrology services, and that either: is unwelcome, offensive to a reasonable person, or creates a hostile workplace environment, and the licensee knows, should know, or is told this; or is sufficiently severe or intense to be abusive to a reasonable person in that context.

(e) A licensee shall not engage in any other activity during the course of treatment which would lead a reasonable person to believe that the activity serves the licensee's personal prurient interests or which is for the sexual arousal, or sexual gratification of the licensee or client or which is construed as an act of sexual abuse.

(f) Violation of any of the prohibitions or directives set forth in (a) through (e) above shall constitute professional misconduct pursuant to N.J.S.A. 45:1-21(e).

(g) It shall not be a defense to any action under this section that the client solicited or consented to sexual contact with the licensee.

13:35-12.21 Advertising and solicitation practices

(a) The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

"Advertisement" means any attempt directly or indirectly by publication, dissemination, or circulation in print or electronic media which directly or indirectly induces or attempts to induce any person to purchase or enter into an agreement for treatment from a licensee.

"Electronic media" means radio, television, and Internet.

"Graphic representation" means the use of drawings, animations, clinical photographs, dramatizations, music or lyrics.

"Print media" means newspapers, magazines, periodicals, professional journals, telephone directories, circulars, handbills, flyers, billboards, signs, matchcovers and other similar items, documents or comparable publications, the content of which is disseminated by means of the printed word.

"Range of fees" means a stated upper and lower limit on the fees charged for services or goods offered by a licensee.

"Routine professional service" means a service which a licensee routinely performs.

(b) A licensee may provide information to the public by advertising in print or electronic media.

(c) An advertisement by a licensee shall include:

1. The name of the licensee;
2. The address of the licensee's office;
3. The licensee's office phone number; and
4. The license number and/or premises license number.

(d) A licensee who engages in the use of advertising which contains any of the following shall be deemed to be engaged in professional misconduct:

1. Any statement, claim or format such as a graphic representation, which is false, fraudulent, misleading or deceptive;
2. Any claim that the treatment performed or the materials and/or equipment used are superior to that which is ordinarily performed or used in the profession unless the claim is objective and can be substantiated;
3. Any promotion of a professional service which the licensee knows or should know is beyond the licensee's ability to perform or any guarantee of results from any treatment not consistent with the definition of electrology in N.J.A.C. 13:35-12.2;

4. The communication of any fact, data or information which may personally identify a client without that client's signed written permission obtained in advance; or

5. Any violations of (e) through (j) below.

(e) The Committee may require a licensee to substantiate the truthfulness of any assertion or representation set forth in an advertisement. Failure of a licensee to provide factual substantiation to support a representation or assertion shall be deemed professional misconduct.

(f) An advertisement offering free services or a fee reduction, including coupons, shall state the reduced fee or range of fees and the licensee's usual fee or range of fees for each service for which a reduction is advertised. The reference fee required in this subsection shall have been the usual fee charged for the advertised service for a period of not less than 90 days prior to the advertised reduction.

(g) The responsibility for the form and content of any advertisement offering treatment by a licensee shall be:

1. Jointly and severally that of each licensee who is a principal of the firm or entity identified in the advertisement; and

2. Borne by the licensee even if the advertisement is placed by an unlicensed entity.

(h) The time period during which an advertised fee will remain in effect shall be set forth on the face of the advertisement. In the absence of such disclosure, the effective period shall be deemed to be 30 days from the date of the advertisement's final publication.

(i) A video or audio tape of every advertisement communicated by electronic media shall be retained by the licensee and shall be made available for review upon request by the Committee. A copy of any advertisement appearing in the print media shall also be retained by the licensee and made available for review. The tapes and print media copies required to be retained by this subsection shall be kept for a period of three years from the date of the last authorized publication or dissemination of the advertisement.

(j) Testimonial advertisement shall be conducted as follows:

1. All testimonials involving a specific or identifiable procedure shall truthfully reflect the actual experience of the client and shall include the following statement:

"This procedure may not be suitable for every client. All clients must be evaluated by an electrologist as the appropriateness of performing the procedure and informed of any potential risks and complications."

BOARD OF MEDICAL EXAMINERS

2. Where compensation has been paid to a testimonial giver, the fact of such compensation shall be conspicuously disclosed in a legible and readable manner in any advertisement in the following language: "COMPENSATION HAS BEEN PROVIDED FOR THIS TESTIMONIAL."

3. A licensee who advertises through the use of testimonials shall maintain documentation relating to such testimonials for a period of three years from the date of the last use of the testimonial. Such documentation shall include, at a minimum, the name, address and telephone number of the individual in the advertisement, the type and amount or value of compensation.

4. The testimonial shall not guarantee any specific results from any treatment.

13:35-12.22 Fee schedule

(a) The following fees shall be charged by the Committee:

1. Application fee:
 - i. Electrologist\$100.00
 - ii. Electrology instructor\$ 75.00
 - iii. Office premises\$200.00
2. Initial license fee:
 - i. Electrologist:
 - (1) First year of the biennial period\$200.00
 - (2) Second year of the biennial period\$100.00
 - ii. Electrology Instructor:
 - (1) First year of the biennial period\$100.00
 - (2) Second year of the biennial period\$ 50.00
 - iii. Office premises:
 - (1) First year of the biennial period\$350.00
 - (2) Second year of the biennial period\$175.00
3. Biennial license renewal fee:
 - i. Electrologist\$200.00
 - ii. Electrology instructor\$100.00
 - iii. Office premises\$350.00
4. Duplicate license\$ 25.00
5. Duplicate wall certificate\$ 40.00
6. Reinstatement fee\$150.00
7. Late fee\$ 50.00
8. Jurisprudence examination\$ 50.00
9. Comity license\$ 75.00
10. Continuing education sponsor fee\$100.00
11. License verification fee\$ 40.00
12. Inactive license fee(Reserved)

